



T-A.
11-7-03

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 03248.00041)

RECEIVED

NOV 06 2003

TECHNOLOGY CENTER R3700

In re Application of:)
K. Ranji Vaidyanathan, et al.)
Serial No.: 10/038,398) Group Art Unit: 3738
Filed: January 2, 2002) Examiner: Thomas C. Barrett
For: Compositions and Methods for Biomedical)
Applications)

Commissioner for Patents
P.O. Box 1450
Mail Stop Non-Fee Amendment
Alexandria, Virginia 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This paper is responsive to the Office Action mailed October 3, 2003 in connection with the above-identified patent application. The Office Action set a one-month shortened statutory period for response.

RESTRICTION/ELECTION

The Office Action requires restriction under 35 U.S. C. 121 to one of the following inventions:

Group I, claims 1-15, drawn to a biomedical implant, classified in class 623, subclass 23.51;

Group II, claims 16-24, drawn to a method of making an implant, classified in class 525, subclass 937; and

Group III, claims 25-26, drawn to a surgical method, classified in class 128, subclass 898. The Office Action further states that “[t]he product claim will be examined along with the elected invention.”

The Office Action also requires an election of the following species and sub-species:

Species I: wherein the matrix or substrate is a thermoplastic-ceramic composition;

Species II: wherein the matrix or substrate is a thermoplastic;

Sub-species i: wherein the growth enhancing composition is within the matrix; and

Sub-species ii: wherein the growth enhancing composition is on the surface of the matrix.

In response, Applicants respectfully traverse the Examiner's restriction of the pending claims. Notwithstanding this, Applicants provisionally elect, with traverse, to proceed with the invention of Group III (claims 25-26) drawn to a surgical method and the invention of Group I (claims 1-15) drawn to a biomedical implant, in accordance with the Examiner's remarks that the product claims will be examined along with the elected method claims.

In response to the election of species requirement, Applicants hereby elect, with traverse, Species II, wherein the matrix or substrate is a thermoplastic composition, and Sub-species ii, wherein the growth enhancing composition is on the surface of the matrix. It is believed that claims 1-8, 11-15 and 25-26 read on this species and sub-species. Upon allowance of a generic claim, Applicants reserve the right to submit claims to the additional species and sub-species disclosed in the pending application.

Applicants look forward to receiving an Office Action on the merits. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted
BANNER & WITCOFF, LTD.



Rebecca P. Rokos
Reg. No. 42,109

Dated: October 31, 2003

10 S. Wacker Drive, Suite 3000
Chicago, Illinois 60606
Tel: (312) 463-5000
Fax: (312) 463-5001